

AN ACT concerning local government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Counties Code is amended by changing Sections 3-5010.5 and 3-5010.10 and by adding Section 3-5010.11 as follows:

(55 ILCS 5/3-5010.5)

Sec. 3-5010.5. Fraud referral and review.

(a) Legislative findings. The General Assembly finds that property fraud, including fraudulent filings intended to cloud or fraudulently transfer title to property by recording false or altered documents and deeds, is a rapidly growing problem throughout the State. In order to combat the increase in the number of these filings, a recorder may establish a process to review and refer documents suspected to be fraudulent.

(b) Definitions. The terms "recording" and "filing" are used interchangeably in this Section.

(c) Establishment and use of a fraud referral and review process. Every recorder shall establish ~~A recorder who establishes~~ a fraud referral and review process under the provisions of this Section ~~may use it~~ to review deeds and instruments. A recorder may refer, to an administrative law judge for review under subsection (g) of this Section, any

deed or instrument that cause the recorder to reasonably believe that the filing may be fraudulent, unlawfully altered, or intended to unlawfully cloud or transfer the title of any real property. ~~and refer any of them to an administrative law judge for review pursuant to subsection (g) of this Section that cause the recorder to reasonably believe that the filing may be fraudulent, unlawfully altered, or intended to unlawfully cloud or transfer the title of any real property.~~

The recorder may enter into an intergovernmental agreement with local law enforcement officials for the purposes of this referral and review. A recorder may request that the Secretary of the Department of Financial and Professional Regulation assist in reviewing possible fraudulent filings. Upon request, the Secretary, or the Secretary's designee, shall assist in identifying the validity of filings. The recorder shall notify the Secretary when a document suspected to be fraudulent is discovered.

In counties with a population of less than 3 million, a recorder shall provide public notice 90 days before the establishment of the fraud referral and review process. The notice shall include a statement of the recorder's intent to create a fraud referral and review process and shall be published in a newspaper of general circulation in the county and, if feasible, posted on the recorder's website and at the recorder's office or offices.

In determining whether to refer a document to an

administrative law judge for review, a recorder may take into consideration any of the following factors:

(1) whether the owner of the property or owner's designated representative has reported to the recorder that another individual is attempting or has attempted to record a fraudulent deed or other instrument upon the property;

(2) whether a law enforcement official has contacted the recorder indicating that the law enforcement official has probable cause to suspect title or recording fraud;

(3) whether the filer's name has a copyright attached to it or the property owner's name has nonstandard punctuation attached to it;

(4) whether the documents assert fines that do not exist or have no basis under current law or that require payment in gold or silver;

(5) whether the documents are maritime liens, or liens under the Federal Maritime Lien Act or the Preferred Ship Mortgage Act, or not authorized by the United States Coast Guard;

(6) whether the documents are land patents not authorized and certified by the United States Department of the Interior Bureau of Land Management;

(7) whether the documents are representing that the subject of the lien is releasing itself from a lien held by another entity, with no apparent cooperation or

authorization provided by the lienholder;

(8) whether the documents are protesting or disputing a foreclosure proceeding that are not filed within the foreclosure suit and with the court presiding over the matter;

(9) whether the documents are Uniform Commercial Code filings referencing birth certificates or other private records that are not in compliance with Section 9-501 of the Uniform Commercial Code;

(10) whether the documents are re-recording deeds to re-notarize or attach notary certification if prior notarization already appears unaltered on the document of record;

(11) whether the documents are asserting diplomatic credentials or immunity, non-United States citizenship, or independence from the laws of the United States;

(12) whether the documents are claims that a bank cannot hold title after a foreclosure;

(13) whether the documents are deeds not properly signed by the last legal owner of record or the owner's court-appointed representative or attorney-in-fact under a power of attorney;

(14) whether the documents are manipulated or altered federal or State legal or court forms that release a lien;

(15) whether a document is not related to a valid existing or potential adverse transaction, existing lien,

or judgment of a court of competent jurisdiction;

(16) a document that is not related to a valid existing or potential commercial or financial transaction, existing agricultural or other lien, or judgment of a court of competent jurisdiction;

(17) whether the document is filed with the intent to harass or defraud the person identified in the record or any other person;

(18) whether the document is filed with the intent to harass or defraud any member of a governmental office, including, but not limited to, the recorder's office, local government offices, the State of Illinois, or the Federal government; and

(19) whether the documents are previous court determinations, including a previous determination by a court of competent jurisdiction that a particular document is fraudulent, invalid, or forged.

(d) Determinations. If a recorder determines, after review by legal staff and counsel, that a deed or instrument that is recorded in the grantor's index or the grantee's index may be fraudulent, unlawfully altered, or intended to unlawfully cloud or transfer the title of any real property, the recorder shall refer the deed or instrument to an administrative law judge for review pursuant to subsection (g) of this Section. The recorder shall record a Notice of Referral in the grantor's index or the grantee's index identifying the

document, corresponding document number in question, and the date of referral. The recorder shall also notify the parties set forth in subsection (e) of this Section. The recorder may, at the recorder's discretion, notify law enforcement officials regarding a filing determined to be fraudulent, unlawfully altered, or intended to unlawfully cloud or transfer the title of any real property.

(e) Notice. The recorder shall use county property tax records to identify and provide notice to the last owner of record by telephone, if available, and certified mail both when: (1) a deed or instrument has been referred for review and determination; and (2) a final determination has been made regarding the deed or instrument. Notice, by mail, shall also be sent to the physical address of the property associated with the deed or instrument.

(f) Administrative decision. The recorder's decision to add a Notice of Referral and refer a document for review is a final administrative decision that is subject to review by the circuit court of the county where the real property is located under the Administrative Review Law. The standard of review by the circuit court shall be de novo.

(g) Referral and review process. Prior to referral, the recorder shall notify the last owner of record of the document or documents suspected to be fraudulent. The person, entity, or legal representative thereof shall confirm in writing the person's, entity's, or legal representative's belief that a

document or documents are suspected to be fraudulent and may request that the recorder refer the case for review. Upon request, the recorder shall bring a case to its county department of administrative hearings and, within 10 business days after receipt, an administrative law judge shall schedule a hearing to occur no later than 30 days after receiving the referral. The referral and case shall clearly identify the person, persons, or entity believed to be the last true owner of record as the petitioner. Notice of the hearing shall be provided by the administrative law judge to the filer, or the party represented by the filer, of the suspected fraudulent document, the legal representative of the recorder of deeds who referred the case, and the last owner of record, as identified in the referral.

If clear and convincing evidence shows the document in question to be fraudulent, the administrative law judge shall rule the document to be fraudulent and forward the judgment to all the parties identified in this subsection. Upon receiving notice of the judgment of fraud, the recorder shall, within 5 business days, record a new document that includes a copy of the judgment in front of the Notice of Referral that shall clearly state that the document in question has been found to be fraudulent and shall not be considered to affect the chain of title of the property in any way.

If the administrative law judge finds the document to be legitimate, the recorder shall, within 5 business days after

receiving notice, record a copy of the judgment.

A decision by an administrative law judge shall not preclude a State's attorney or sheriff from proceeding with a criminal investigation or criminal charges. If a county does not have an administrative law judge that specializes in public records, one shall be appointed within 3 months after the effective date of this amendatory Act of the 98th General Assembly, or the original case shall be forwarded to the proper circuit court with jurisdiction.

Nothing in this Section precludes a private right of action by any party with an interest in the property affected by the review and referral, or the filer of the document or documents suspected to be fraudulent. Nothing in this Section requires a person or entity who may have had a fraudulent document or encumbrance filed against the person's or entity's property to use the fraud review and referral process or administrative review created by this Section.

(h) Fees. The recorder shall retain any filing fees associated with filing a deed or instrument that is determined to be fraudulent, unlawfully altered, or intended to unlawfully cloud or transfer the title of any real property under this Section.

(i) Liability. Neither a recorder nor any of the recorder's employees or agents shall be subject to personal liability by reason of any error or omission in the performance of any duty under this Section, except in case of

willful or wanton conduct. Neither the recorder nor any of the recorder's employees shall incur liability for the referral or review, or failure to refer or review, a document or instrument under this Section.

(j) Applicability. This Section applies only to filings provided to the recorder on and after the effective date of this amendatory Act of the 98th General Assembly.

(k) (Blank).

(Source: P.A. 103-400, eff. 1-1-24.)

(55 ILCS 5/3-5010.10)

Sec. 3-5010.10. Property fraud alert system; registration by property owners and real estate professionals.

(a) As used in this Section:

"Property fraud alert system" means any electronic or automated alert system run by a county or by a third-party vendor, by whatever name, that informs a property owner by e-mail, telephone, or mail when a document is recorded with the county recorder that relates to a registered property.

"Real estate professional" means a licensed real estate agent, attorney, closing agent, or agent of a title insurance company.

(b) Every county shall establish and maintain a property fraud alert system. A recorder shall ~~In a county that has a property fraud alert system, a recorder may~~ create a registration form for a real estate professional to file with

the recorder on behalf of a property owner to register the property owner in the county's property fraud alert system. The registration form must contain the following minimum information:

(1) A notice on the top of the form that property owners are not required to register with the county's property fraud alert system.

(2) A description of the county's property fraud alert system; the name of the third-party vendor, if any, who operates the property fraud alert system; and the cost, if any, to the property owner of the property fraud alert system;

(3) A portion to be completed by a property owner and real estate professional containing:

(i) the property owner's name and mailing address;

(ii) the Property Index Number (PIN) or unique parcel identification code of the property for which an alert will be created;

(iii) the e-mail, telephone number, or mailing address the property owner would like to receive the alert;

(iv) any information a third-party vendor who operates a county's property fraud alert system requires to register a property owner;

(v) if required, payment method and billing information;

(vi) a clear and conspicuous notice, immediately before the signatures, stating that the property owner understands that neither the recorder, nor a third-party vendor operating a county's property fraud alert system, nor a real estate professional, nor any employees thereof shall be liable to the property owner should the property fraud alert system fail to alert the property owner of any document being recorded and that it is the property owner's responsibility to verify the information he or she has provided is correct and that he or she is registered with the property fraud alert system;

(vii) a place for the property owner's signature;

(viii) a place for the real estate professional's signature, if applicable, along with a statement indicating that the real estate professional is registered with the recorder and is allowed to file the registration form with the recorder; and

(ix) a place to list up to 3 other persons to receive a property fraud alert, including each person's e-mail, telephone number, or address where he or she will receive the alert.

(c) A property owner or real estate professional may file a completed and signed registration form with the recorder. When a recorder receives such a completed and signed registration form, the recorder shall complete the

registration process for the property owner listed on the registration form by entering the information from the registration form into the property fraud alert system.

(d) A real estate professional that wishes to file registration forms with the recorder on behalf of property owners must first register with the recorder by verifying they are a licensed real estate agent, attorney, closing agent, or agent of a title insurance company. The recorder shall keep a list of all registered real estate professionals.

(e) No county, recorder, third-party vendor operating a county's property fraud alert system, real estate professional, or any employees thereof shall be subject to liability, except for willful and wanton misconduct, for any error or omission in registering a property owner pursuant to this Section or for any damages caused by the failure of the property owner to be alerted of any document that was recorded that relates to a property registered under the owner's name.

(f) A home rule unit shall not use or create a registration form for use by a real estate professional to register a property owner on the county's property fraud alert system that conflicts with this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State. However, nothing in this Section shall prevent any person from signing up for a property fraud alert system by other means than those

provided for in this Section, including, but not limited to, on a county's website or a third-party vendor's website that hosts a property fraud alert system.

(Source: P.A. 99-75, eff. 1-1-16.)

(55 ILCS 5/3-5010.11 new)

Sec. 3-5010.11. Private right of action. Any person who knowingly files or causes to be filed a deed or instrument that is recorded in the grantor's index or the grantee's index that is fraudulent, unlawfully altered, or intended to unlawfully cloud or transfer the title of any real property may be held liable to the rightful property owner affected in an action brought in a court of competent jurisdiction for such legal or equitable relief as may be appropriate to enforce this Code.